

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)	
)	
ILLINOIS COMMERCE COMMISSION)	
ON ITS OWN MOTION)	
)	
vs.)	No. 13-0041
)	
FS ENERGY, LLC)	
)	
Citation for failure to File)	
Compliance Recertification)	
Report Required By)	
83 Ill. Adm. Code 454.110.)	

Chicago, Illinois
March 26th, 2013
Met pursuant to notice at 2:30 p.m.

BEFORE:
Heather Jorgenson, Administrative Law Judge

APPEARANCES:

MR. CONRAD S. RUBINKOWSKI
Office of the General Counsel
527 East Capitol Avenue
Springfield, Illinois 62701
for ICC Staff;

BENJAMIN C. KIRSCHENBAUM
622 Third Avenue
New York, New York 10017
(212) 634-5438
for FS Energy, LLC.

L.A. COURT REPORTERS,

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I N D E X

Re Re By

WITNESSES: Direct Cross Direct Cross Examiner

None.

E X H I B I T S

NUMBER MARKED FOR ID IN EVIDENCE

None.

1 JUDGE JORGENSEN: Pursuant to the direction of
2 the Illinois Commerce Commission I now call Docket
3 13-0041, Illinois Commerce Commission on Its Own
4 Motion versus FS Energy, LLC. This is a citation for
5 failure to file compliance recertification report
6 required by 83 Illinois Administrative Code 454.110.

7 Can I have appearances for the record,
8 and we will start with Mr. Kirschenbaum?

9 MR. KIRSCHENBAUM: Yes, Benjamin C.
10 Kirschenbaum, general counsel for FS Energy, LLC.

11 JUDGE JORGENSEN: Can I also please have your
12 business address and telephone number?

13 MR. KIRSCHENBAUM: Sure. 622 Third Avenue, New
14 York, New York 10017, telephone, (212) 634-5438.

15 JUDGE JORGENSEN: Thank you. And Staff?

16 MR. RUBINKOWSKI: Conrad S. Rubinkowski,
17 R-U-B-I-N-K-O-W-S-K-I, Office of General Counsel,
18 Illinois Commerce Commission, 527 East Capitol
19 Avenue, Springfield, Illinois 62701, phone number
20 (217) 785-3922.

21 JUDGE JORGENSEN: Thank you. Mr. Kirschenbaum,
22 you e-mailed a petition in opposition and an

1 affidavit in this matter?

2 MR. KIRSCHENBAUM: Yes.

3 JUDGE JORGENSEN: Okay. I received an e-mail
4 from the Clerk's Office that they hadn't accepted it
5 because there was no certificate of service.

6 Are you going to be providing them
7 one?

8 MR. KIRSCHENBAUM: I sent it. I did not -- I
9 was relying on outside counsel, sometimes a mistake.
10 I didn't realize it, but it was sent to them last
11 Friday, that -- both electronically and by mail each
12 of you were served.

13 JUDGE JORGENSEN: Okay. The certificate of
14 service was sent because I received the e-mail.

15 MR. KIRSCHENBAUM: Right.

16 JUDGE JORGENSEN: All right. Thank you. Mr.
17 Rubinkowski, have you seen the petitions, and do you
18 have a recommendation in this matter?

19 MR. RUBINKOWSKI: Well, I would just like to
20 make sure that the delinquent reports have indeed
21 been filed with the Commission.

22 MR. KIRSCHENBAUM: Yes, they have. I have file

1 copies, yes.

2 MR. RUBINKOWSKI: As far as Staff is concerned
3 then, if the materials have been filed, if the
4 respondent wished to make an oral Motion to Dismiss,
5 Staff would not oppose it.

6 MR. KIRSCHENBAUM: Okay. I make a Motion to
7 Dismiss.

8 JUDGE JORGENSEN: Okay. You are making a
9 Motion to Dismiss this matter, and Staff, you do not
10 oppose the Motion to Dismiss?

11 MR. RUBINKOWSKI: No, Judge, we do not.

12 JUDGE JORGENSEN: And this is based on the fact
13 that they have filed the report and it did not affect
14 other customers or RESs?

15 MR. RUBINKOWSKI: That's correct.

16 JUDGE JORGENSEN: Okay. I will take the
17 recommendation -- since there are no other matters in
18 front of me, I will make a recommendation to the
19 Commissioners to dismiss this matter, and I will also
20 mark the record heard -- is there anything else for
21 the record today?

22 MR. RUBINKOWSKI: Nothing from Staff.

1 JUDGE JORGENSEN: Mr. Kirschenbaum?

2 MR. KIRSCHENBAUM: No. Nothing for the record
3 at all. Thank you.

4 JUDGE JORGENSEN: Okay. I will mark the record
5 heard and taken.

6 (FURTHER DEPONENT SAITH NOT.)

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